

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Janice Tidlund

Date application filed with the Town Clerk: January 4, 2007

Nature of request: A Special Permit to keep two horses on the premises, under Section 5.014 of the Zoning Bylaw

Address: 343 East Hadley Road (Map 16-D, Parcel 2, R-N Zoning District)

Legal notice: Published on January 10 and 17, 2007 in the Daily Hampshire Gazette and sent to abutters on January 10, 2007.

Board members: Tom Simpson, Hilda Greenbaum and Al Woodhull

Submissions: The petitioner submitted a management plan for the care of the horses, a Town GIS map of the property showing the location of the barn and pasture areas, and a set of building plans for the barn.

Site Visit: January 23, 2007

The Board met with Ms. Tidlund at the site and observed the following:

- A large flat area of farmland surrounding the one acre site;
- A newly constructed barn in the back of the property, large enough to keep two draft horses and the equipment associated with handling them;
- Approximately 1/3 acre of pasture land on the site and another large area on the neighboring property to the east for pasture as well.

Public Hearing: January 25, 2007

The applicant and her husband, Peter Keyser, spoke to the petition at the hearing. They gave the following information:

- The applicant would like to keep two Belgian draft horses on the property;
- The barn is 24 x 30 feet, with a 6 x 30 foot covered porch on the south side;
- There will be a pasture in front of the barn on the property, and another at a neighbor's farmland to the east;
- Both areas will be fenced. The pasture next door will have 4 x 4" fence posts, 4 rails high (5 feet tall) with electric wiring along the top rail. The pasture on the property will have metal fencing with electric wire on top so that the paddock can be moved around;
- The applicant was not sure about how big the area of the pastures will be;
- The horses will be for her own use only, as a hobby;
- There are two options for the disposal of manure – to spread it on the fields to the west or the orchard to the east of the property, or to remove via dump trucks for use by contractors;
- There will not be much manure, since there only will be two horses, and the applicant does

- not intend to keep it on the property for any length of time;
- Also to keep odor down, lime will be put on the manure;
- Manure has no real nutrients for the soil, as does cow or other animal manure, but does help to aerate the soil or keep weeds down in an orchard;
- There is a 50-foot right-of-way along the eastern edge of the property which has been used by the applicant's husband for years. The farmer to the east owns it, but it always has been shared;
- Access to the horses and barn from East Hadley Road would be across this right-of-way;
- If the right-of-way is not available, the barn and horses can be accessed along the west side of their property.

Ms. Greenbaum commented that the proposal was appropriate to the location, surrounded by farmland, and with only one other house nearby.

Mr. Woodhull stated that he walked north along the western boundary of the property and beyond for quite a way; the area is all farmland and an ideal location for horses.

One person from the neighborhood spoke to the petition. Beverly Weeks, 337 East Hadley Road, said that she lives in the one house next door. She said that she is surrounded on three sides by agriculture, and has no real quarrel with the horses, but does have some concerns: 1) She is 30 yards from the proposed pasture behind her house, and 30 feet from the right-of-way. She said there is dust and noise already from the agriculture and the horses may increase this. 2) Will the horses pull wagons? Will there be a trailer to transport the horses? She does not want these vehicles to disturb her view, and asked that any vehicles associated with the horses be kept behind the horse barn. 3) There often is vermin in a barn, especially without cats to control them. 4) A light at the barn may disturb her at night.

The petitioners responded that they will keep vehicles associated with the horses behind the barn, there are lots of cats in the neighborhood, the grain for the horses will be kept in metal trash barrels, and the light will be one shielded 75-watt bulb over the doorway of the barn, which is required and will not be visible to Ms. Weeks' house.

Ms. Greenbaum moved to close the evidentiary part of the hearing. Mr. Woodhull seconded the motion and the vote was unanimous to close the hearing.

Public Meeting:

The Board Chair, Mr. Simpson, asked if the Board members had any concerns with the application. There were none.

Under Section 5.014, livestock or poultry may be kept for use by the residents with a Special Permit in an R-N Zoning District. The Board noted that with farmland on three sides of the property and only one other house nearby, conditions are quite appropriate for keeping horses.

The Board crafted conditions for the Special Permit to keep draft horses on the property during the public meeting time.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special

Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because the surrounding area is farmland, ideal for keeping horses.

10.382, 10.383 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the applicant's property is large, the barn is located far away from the one neighboring house, and protection will be taken to ensure low impact on the neighborhood.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because there is a new barn for the horses, there will be two pastures, food will be kept in sealed containers and manure will be taken off the premises.

10.387 – The proposal provides convenient and safe vehicular movement within the site and in relation to adjacent streets/property because the property is large, there are rights-of-way on both sides of the property and density is low in the area because of the farmlands.

10.389 – The proposal provides adequate methods of disposal of manure since the neighboring farmers are amenable to taking the manure, as are local construction workers or landscapers.

10.391 – The proposal protects unique or important natural, historic or scenic features because two horses will not impact the wonderful scenic features of the area.

10.392 – The proposal provides adequate landscaping, including the screening of adjacent residences, because the large equipment associated with the horses will be kept behind the barn.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because there will be just one light bulb on the barn and it will be downcast.

10.397 – The proposal provides adequate recreational facilities, open space and amenities for the proposed use because there will be two pastures for the horses, and there are two non-paved trails in the immediate area.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting – Zoning Board Decision

Mr. Simpson made a motion to APPROVE the Special Permit application, with conditions. Ms. Greenbaum seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit under Section 5.014 of the Zoning Bylaw to Janice Tidlund to keep two horses on the premises at 343 East Hadley Road (Map 16D, Parcel 2, R-N Zoning District, with conditions.

THOMAS SIMPSON

HILDA GREENBAUM

ALBERT WOODHULL

FILED THIS _____ day of _____, 2007 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2007.
NOTICE OF DECISION mailed this _____ day of _____, 2007
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2007,
in the Hampshire County Registry of Deeds.

**Town of Amherst
Zoning Board of Appeals**

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit under Section 5.014 of the Zoning Bylaw to Janice Tidlund to keep two horses on the premises at 343 East Hadley Road, (Map 16D, Parcel 2, R-N Zoning District) subject to the following conditions:

1. There shall be a maximum of two horses, and no other livestock, kept on the property.
2. Care of the horses shall be as described in the Management Plan approved by the Board at the public meeting of January 25, 2007.
3. Trailers and all other large equipment associated with the horses shall be parked behind the barn out of sight.
4. Grain shall be kept in rodent-proof containers.
5. Precautions such as the regular application of lime shall be taken to minimize odor from the manure.
6. Manure shall be regularly removed and disposed of off the property
3. Pasture areas shall be maintained in a manner so as to minimize dust.
4. Exterior lighting for the barn shall be downcast and shielded.
5. There shall be no commercial use on the property in relation to the horses.
6. A scaled drawing of the property and area to the east giving the dimensions of the two pasture areas shall be submitted to the Board at a public meeting.
7. This permit shall expire in three years or upon change of ownership of the property.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE